

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.21097 OF 2017

ORDER:

The petitioner and the third respondent entered into a Lease Agreement on 04.07.2002 for developing and shaping the Recreation Park under the name 'Crazy World' in R.S.Nos.564 and 656, in an extent of Acs.5.00 situated within the NTR Manasa Sarovar Park, Guntur, Andhra Pradesh. Under the said Agreement, the petitioner is under an obligation to invest in creating all the amenities with the components of 'Water Park' and 'Amusement Park'. The infrastructure shall be attractive to the people and help promote the Park as total family entertainment site. In pursuance of the said Agreement, the petitioner engaged qualified technicians and other staff required in running the said Park and upgraded it for the entertainment of the people. The lease was for a period of fifteen years from 04.07.2002 and it came to an end on 03.07.2017. As per the terms of the Agreement, the petitioner exercised the option of seeking extension with new terms and conditions to be decided by the council/elected body. Now the petitioner alleges breach of agreement by the third respondent, and in spite of the same, the petitioner continued to pay all the rents, charges and taxes to the third respondent. Though the petitioner sought extension of the Agreement and submitted representations on 08.08.2016, 06.10.2016 and 18.02.2017, no decision was taken on the said representations. In those circumstances, the petitioner got issued a notice on 08.05.2017 through its lawyer. Since there was no election to the Municipal Corporation, the elected body is not available. But, the third respondent issued an endorsement on 20.05.2017 directing the petitioner to vacate the Park. Challenging the said notice, the present writ petition was filed.

A counter affidavit was filed on behalf of respondents 2 and 3 denying the allegations made in the affidavit filed in support of the writ petition. It was stated that the Government of Andhra Pradesh through its Memo dated 23.03.2002 was pleased to approve two project proposals and recommended to

the second respondent to award two projects to the petitioner in technical collaboration of M/s.Ocean Park Multi-tech Limited, Hyderabad. Out of the two projects, one project is 'Amusement Park' located at Manasa Sarovaram Park, NH-5, Guntur and the other project is 'Boating Facilities' in the said Park. The Government fixed the lease for a period of fifteen years and with 5% of the market value with annual escalation at 5% as lease amounts and also additional development premium at Rs.2,40,000/- per annum or 2% of Gross receipts. The said Government Memo was placed before the Municipal Corporation, which is competent to grant the lease and the Municipal Corporation approved the same in its Resolution No.640, dated 19.04.2002 permitting the lease in favour of the petitioner in an extent of Acs.5.00 for a period of fifteen years for the first project and for a period of five years for the second project. Accordingly, orders were issued on 26.04.2002 by the second respondent by handing over the site to the petitioner to execute the lease agreement in favour of the second respondent Corporation on 05.07.2002. One of the conditions in the Agreement is that 'any dispute relating to the lease shall be subject to jurisdiction of the civil courts in Guntur' and there is another condition that 'if the Municipal Corporation is not inclined to or interested in maintaining the Park on its own, further maintenance through lease shall be decided as per prevailing conditions at that time to the existing lessee on terms and conditions to be decided by the then council'. The Municipal Corporation initiated proposal for further development of the Park and there were no proposals to lease out the said Park to private parties. Accordingly, the petitioner was informed through an endorsement, dated 20.05.2017, to pay the lease amount due, and also electricity bills for the lease period as on 03.07.2017 and handover the Park to the second respondent Corporation. The petitioner has not paid the lease amount upto date, there is an outstanding balance of Rs.7,82,918/- and the electricity bills have to be cleared. The lease period commenced on 04.07.2002 and came to an end on 03.07.2017 as per condition No.IV of the Lease Agreement.

This Court, while taking up the matter on 03.07.2017 and posting the case after eight weeks, directed the respondents not to take any coercive steps on condition of the petitioner paying Rs.80,000/- as lease amount for each month from July, 2017. The said order is being extended from time to time.

When the matter came up before this Court on 25.04.2018, this Court, after hearing the parties, asked the petitioner to file an Affidavit undertaking to vacate the premises and handover the same to the respondents 2 and 3 on or before 31.05.2018, but the petitioner did not file the Affidavit and chose to argue the matter on merits.

It is an admitted case that the lease in an extent of Acs.5.00 of land belonging to the second respondent Corporation commenced on 04.07.2002 and concluded on 03.07.017. The second respondent Corporation made it clear that it does not want to extend the lease period and is not inclined to entrust it to private parties. It wanted to maintain on its own. As could be seen from the events in the present writ petition, but for the Order of this Court on 03.07.2017, the petitioner would not have continued in the Park after expiry of the lease period. There is no specific clause for renewal and it is left to the discretion of the second respondent Corporation to extend it or otherwise. Further, since the Agreement is not a statutory agreement, the present writ petition is not maintainable in the absence of any statutory flavour. The petitioner continued for the last ten months by virtue of the interim order and this Court sees no ground to entertain the present writ petition.

The writ petition is accordingly dismissed giving liberty to the second respondent Corporation to take further action in accordance with law. Consequently, miscellaneous petitions, if any pending, in this writ petition, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

30.04.2018
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